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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,143	02/10/2004	Kenny C. Gross	SUN-P8737	3054
22835	7590	02/25/2005	EXAMINER	
A. RICHARD PARK, REG. NO. 41241 PARK, VAUGHAN & FLEMING LLP 2820 FIFTH STREET DAVIS, CA 95616			SUN, XIUQIN	
		ART UNIT	PAPER NUMBER	2863

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/776,143	GROSS ET AL.
	Examiner Xiuqin Sun	Art Unit 2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 10 February 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-30 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5,9-15,19-25,29 and 30 is/are rejected.  
 7) Claim(s) 6-8,16-18 and 26-28 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 10 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5, 9-15, 19-25, 29 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Gross et al. (U.S. Pub. No. 20040078723).

Gross et al. teach a method, apparatus, and computer-readable storage medium storing instructions that when executed by a computer cause the computer to perform said method, for detecting a thermal anomaly in a computer system, comprising: deriving an estimated signal for a thermal sensor in the computer system, wherein the estimated signal is derived from correlations with other instrumentation signals in the computer system (sections 0027-0029, 0035-0037 and 0040); comparing an actual signal from the thermal sensor with the estimated signal to determine whether a thermal anomaly exists in the computer system (sections 0027-0029, 0035-0037 and 0040); and if a thermal anomaly exists, generating an alarm (section 0037). The teaching of Gross et al. further includes: generating the alarm involves communicating the alarm to a

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system administrator so that the system administrator can take remedial action, including communicating information specifying the nature of the thermal anomaly to the system administrator (sections 0031, 0032, 0034 and 0037); using sequential detection methods to detect changes in the relationship between the actual signal and estimated signal, wherein the sequential detection methods include the Sequential Probability Ratio Test (SPRT) (sections 0031 and 0037); said instrumentation signals can include: signals associated with internal performance parameters maintained by software within the computer system; signals associated with physical performance parameters measured through sensors within the computer system; and signals associated with canary performance parameters for synthetic user transactions, which are periodically generated for the purpose of measuring quality of service from an end user's perspective (section 0015); deriving the estimated signal for the thermal sensor involves deriving multiple estimated signals for multiple thermal sensors in the computer system, and wherein comparing the actual signal with the estimated signal involves comparing multiple actual signals with multiple estimated signals to determine whether a thermal anomaly exists in the computer system (sections 0014, 0027, 0028, 0032, 0035 and 0036).

***Allowable Subject Matter***

3. Claims 6-8, 16-18 and 26-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Reasons for Allowance***

4. The following is an examiner's statement of reasons for allowance:

The primary reason for the allowance of claims 6-8, 16-18 and 26-28 is the inclusion of the limitation of, prior to deriving the estimated signal, the method further comprises determining correlations between instrumentation signal in the computer system, whereby the correlations can subsequently be used to generate estimated signals for thermal sensors. It is this limitation found in each of the claims, as it is claimed in the combination that has not been found, taught or suggested by the prior art of record, which makes these claims allowable over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Prior Art Citations***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1) Slaight (U. S. Pat. No. 6480809) is entitled to "Computer system monitoring".

***Contact Information***

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Xiuqin Sun whose telephone number is (571)272-2280. The examiner can normally be reached on 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571)272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Xiuqin Sun  
Examiner  
Art Unit 2863



  
John Barlow  
Supervisory Patent Examiner  
Technology Center 2800